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C O N F I D E N T I A L SECTION 01 OF 04 NAIROBI 001384

SIPDIS

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TAGS: [PGOV](#) [ASEC](#) [PREL](#) [KDEM](#) [KE](#)

SUBJECT: KENYA BRACES FOR PARLIAMENTARY BY-ELECTIONS ON
JUNE 11

REF: A. NAIROBI 598

[1](#)B. NAIROBI 356

[1](#)C. NAIROBI 309

[1](#)D. NAIROBI 198 AND OTHERS

Classified By: Ambassador Michael E. Ranneberger for reasons 1.4 (b, d)

SUMMARY

[1](#)1. (C) Kenya will hold parliamentary by-elections on June 11 to fill five of six vacant parliamentary seats. The largest parliamentary blocs, the Orange Democratic Movement (ODM) and the Party of National Unity (PNU), hope to gain seats, but each of the races is tight. The results are unlikely to overturn ODM's edge in parliamentary seats over the PNU. The parties have not publicly objected to the Electoral Commission of Kenya (ECK) administering the elections nor have they sought alternate mechanisms to administer the elections. Furthermore, there was no viable alternatives to holding the elections now, as voters were pressing to be represented. We, in coordination with like-minded diplomatic missions, will send observers to the five constituencies to monitor voting and especially the tallying process. We joined other countries in issuing a statement on the elections (see text in para. 15) End Summary.

Rundown of the By-elections

[1](#)2. (U) The ECK has scheduled by-elections for June 11 to fill five of the six vacant parliamentary seats. By-elections will be held in Embakasi (Nairobi), Ainamoi (Rift Valley), Kilgoris (Rift Valley), Emuhaya (Western), and Wajir North (North Eastern). Elections in Embakasi and Ainamoi are being held to replace two murdered ODM parliamentarians (reftels B and C), while the Emuhaya elections are to replace Kenneth Marende, who had to resign his seat when elected Parliamentary Speaker. Wajir North is being re-run after a numerical tie between the top two candidates, while Kilgoris is a re-run after youth ransacked the tally center, making it impossible to finalize the result. (Note: The sixth vacant seat, Kamukunji (Nairobi), is subject to an election petition by a candidate seeking to be declared the winner. No by-election for Kamukunji can be held until the case is resolved. End Note.)

13. (C) ODM is defending seats in three constituencies; Emuhaya, Ainamoi, and Embakasi. According to ODM's Secretary General, the party hopes to defend its three seats and win at least one more, in Wajir North or Kilgoris. Ainamoi should be a fairly easy win for ODM, unless Kipsigis (Kalenjin sub-clan) resentment about being under-represented in the coalition government creates an anti-ODM backlash. However, ODM's ability to defend the Embakasi and Emuhaya seats is not a foregone conclusion. Embakasi is a tight race and the Kikuyu-majority population leans toward PNU, although the recent Mungiki swing toward ODM could tip the race in ODM's favor. In Emuhaya, the ODM candidate faces a crowded field and the outgoing MP, Speaker Marende, barely won in December 2007. In Kilgoris, divisions in the Maasai community could give the race to ODM, while in Wajir North clan alliances will determine the race.

The Politics of By-Elections in the Grand Coalition

14. (C) The by-elections come at an awkward time for the "Grand Coalition" government, which still shows some signs of tension between ODM and PNU. President Kibaki and Prime Minister Odinga, to their credit, are cognizant that a tough campaign could heighten tensions within the government. Each has stated he will not play a role in his party campaign. Their underlings are not so shy. Orange Democratic Movement (ODM) Secretary General (and Minister of Health Services) Anyang' Nyong'o told Poloff that ODM is gearing up its resources and would spare no effort to try and win all five

NAIROBI 00001384 002 OF 004

races. Party of National Unity (PNU) spokesman George Nyamweya was also quoted in the media as saying that PNU will fight hard to win each race.

Embakasi: Mungiki Could Tip Race to ODM

15. (C) In the December 2007 election, ODM won the Embakasi seat after PNU and its ally, the Kenya African National Union (KANU), failed to agree on a joint candidate. This split allowed the ODM candidate, the late Mugabe Were, to win the seat despite polling 15,000 fewer votes than the combined total of the KANU and PNU candidates. This time, PNU and KANU have agreed to rally behind one candidate, Ferdinand Waitatu. The ODM candidate is Esther Passaris, who in February 2008 was the ODM candidate for Mayor of Nairobi until former Minister of Local Government Uhuru Kenyatta controversially rescinded her nomination (ref A). The wildcard in this Kikuyu majority Nairobi constituency is the Mungiki sect - large numbers of its followers are registered voters here and supported KANU and PNU in December. However, this time the Mungiki political leadership has thrown its support behind ODM. If its followers listen, ODM could hold onto this seat. Supporters of Waitatu and Passaris have already engaged in street battles. This will be a tense race with potential for violence.

Wajir North - Shifting Clan
Alliances to Determine Result

16. (C) In Wajir North, the ODM and Kenya African National Union (PNU ally) candidates tied in December 2007. They will be the only two candidates on the ballot. The outcome of this race will be decided by clan alliances. Both candidates are members of the Ajuran clan (of the ethnic Somali Hawiye clan family), but the incumbent MP, the KANU candidate, hails from the larger Garen sub-clan. The contender hails from the smaller Waqle sub-clan. While the incumbent claims victory will be his because he will unite the Garen vote (he had to compete against three other Garen candidates in December

2007), other smaller sub-clan leaders feel that the incumbent has not done enough for them in his term of office and are supporting the ODM candidate. The ODM MP for neighboring Wajir East admitted to Poloff that the outcome of the race is uncertain, and each candidate continues to strike deals with clan leaders to secure support.

Kilgoris: Advantage ODM -
potential for violence high

¶7. (C) In Kilgoris, the Maasai hope to maintain control of the district in the face of an influx of Kipsigis (Kalenjin sub-clan) from neighboring districts. In the December 2007 elections, the Kipsigis provided near-unanimous support for the ODM candidate. The more numerous Maasai vote, however, split among several candidates. When Maasai elders saw that the ODM candidate would win the election, Maasai "morani" (warriors) ransacked the ECK tally center and no results could be announced. ODM has proposed the same candidate. Maasai elders have tried, and failed, to broker efforts to stand behind one candidate for the by-election. Tribal politics makes strange bedfellows: the ethnic Maasai ODM Assistant Minister for Defense (Kajiado Central MP Joseph Nkaisserry) has endorsed the ethnic Maasai PNU candidate. If the Maasai fail to reach a deal to support one candidate, ODM are likely to win this seat. If that happens, a repeat of violence should not be discounted. Police are conscious of the potential for violence and will field a strong presence in Kilgoris on election day.

Ainamoi: ODM win likely, but Kipsigis
Resentment Could Factor in Race

NAIROBI 00001384 003 OF 004

¶8. (C) In Ainamoi, ODM has nominated Jonathan Lagat, the brother of recently-murdered MP David Too, as its standard bearer. This move to capture the sympathy vote should make this a safe seat, as Too cruised to victory in December 2007. However, ODM's Kipsigis leaders have recently complained about being snubbed during the formation of the coalition government at the expense of Nandi (another Kalenjin sub-clan) leaders. Additionally, the nomination procedure created some unrest within the local ODM, as losers cried foul. If the perception takes hold that the ODM central leadership unfairly favored Too, this, combined with lingering Kipsigis resentment, could create an anti-ODM backlash. Still, ODM is likely to win this seat.

Emuhaya: Crowded Field
and Tight Race

¶9. (U) In the Western Province constituency of Emuhaya, ODM is seeking to defend Parliamentary Speaker Kenneth Marende's seat in a crowded field of 18 candidates. Western Province is seen as an ODM stronghold, but Speaker Marende beat the PNU candidate, Julius Ochiel, by less than 300 votes in December 2007. Ochiel is back as the PNU candidate and ODM has named Wilber Ottichilo as its candidate. Ottichilo ran a strong third to Marende on a local party ticket, trailing Marende by only four hundred votes. This election will likely be determined by turnout.

Mission Observation Plans

¶10. (U) The lack of strong domestic Kenyan observation efforts at the December 2007 elections highlighted the importance of robust international election observation

efforts. Given the importance of these elections, Embassy Nairobi intends to deploy a total of 20 observations teams (each consisting of an American, and two Kenyan mission staff) to the five constituencies. We have coordinating with like-minded diplomatic missions to organize a joint elections observation training; to staff a joint control room at the Embassy, and will create a joint deployment plan to ensure widest possible coverage of polling.

¶11. (U) The December 2007 elections showed that the weakest link in the electoral process is the tallying of results. Accordingly, working with our international colleagues we will station two observation teams in each tally center. The two tally center teams in each constituency will, working in shifts, observe the tallying process from start to finish.

¶12. (U) Together with other diplomatic missions, there will be at least five field teams observing polling throughout the day. Each team will witness the count in one polling station and report this result to the tally center teams. Once they have witnessed the final result from one polling station, each field team will try to collect final count data from 3-4 additional polling stations and relay this information to the tally center team. (Note: ECK regulations require final count results to be displayed publicly at each polling station. This will facilitate collection of data by field teams. End Note)

¶13. (U) This accumulated data should allow tally center observation teams to have approximately 20 data points from polling stations in each constituency. The results from the field will then be compared with the final results announced at the constituency tally center, providing a meaningful control factor on the work of each constituency tally center.

Ambassador Announces Observation Mission
and Statement of Election Principles

¶14. (U) The Ambassador, along with Heads of Missions from the European Union and the Like-Minded Diplomatic Mission-Political (LIMID-P) group, held a press conference on

NAIROBI 00001384 004 OF 004

June 4 announcing the observation mission. The Heads of Mission statement highlighted the need for urgent electoral reform and further stated that our observation mission is in no way an endorsement of the ECK. The Heads of Mission also announced a statement of election principles and called on political parties and their leaders, the media, and the public to abide by these.

¶15. Begin text of statement.

We, the undersigned Heads of diplomatic missions based in Nairobi, have been invited by the Electoral Commission of Kenya to participate as observers of the by-elections to be held on 11 June. Our participation should in no way be seen as an endorsement of the Commission. We are only too aware that the December general election revealed an urgent need for electoral reform including a restructured ECK. We, alongside Kenyans, support the work of the Independent Kriegler Commission and look forward to seeing the prompt implementation of its recommendations.

We would like to take this opportunity to:

-urge political leaders to publicly denounce all forms of violence, ethnic incitement and electoral malpractice. Call upon the ECK, police and Attorney General to pro-actively address any violation of the Code of Conduct.

-Urge party leaders to take steps that will encourage women's participation.

-Urge the media to provide objective and unbiased reporting of the electoral process and refrain from ethnic incitement.

-Urge the relevant authorities to respect the rights of citizens to assemble and demonstrate peacefully and ensure all political actors have access, without restrictions, to the whole of Kenya.

End text.

COMMENT

¶15. (C) We expect this to be a hard-fought campaign, even if the results of these elections are unlikely to alter the balance of power in parliament. ODM is likely to retain its majority in parliament, thereby safeguarding Raila Odinga's position as Prime Minister. None of the political parties publicly objected to the ECK's role. Given the weaknesses of the Kenyan electoral system exposed during the December 2007 election, we took the decision to mount an observation mission in the hope that it can act as a control factor on any tallying mischief similar to that which occurred in December 2007. End Comment.
RANNEBERGER